

## Exempting surplus inventory of drug distributors from property taxation

HB 3016 by Hill (Staples)

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### DIGEST:

HB 3016 would have exempted the value of “drug supplies held in surplus” from the market value of a wholesale pharmaceutical distributor’s inventory for ad valorem taxation purposes. Exempted supplies would have included surplus drugs held for less than 60 days for use in responding to a terrorist attack, bioterrorism event, or catastrophic disaster. Pharmaceutical drug manufacturers, retail pharmacies, and chain pharmacies would not have been included under the exemption.

### GOVERNOR’S REASON FOR VETO:

“House Bill No. 3016 would exclude from taxation excess drug supplies maintained by wholesale drug distributors for less than 60 days. The bill gives the impression that this tax exception should be made because these drugs would be used in the event of a homeland security situation. However, the Department of Homeland Security operates the Strategic National Stockpile, and it is those massive quantities of medicine and medical supplies that states and communities will be able to access in response to a public health emergency.

The bill would also allow wholesale drug distributors to exclude excess drug supplies for responses to general public health care emergency needs without paying taxes on them, but does not provide other entities like drug manufacturers or pharmacies with the same exclusion. This bill unnecessarily uses the guise of national security to establish an unfair tax break. Therefore I am vetoing House Bill No. 3016.”

### RESPONSE:

Rep. Fred Hill, the bill’s author, said: “It is extremely unfortunate and surprising that the governor vetoed this public safety bill. The purpose of the bill was to allow pharmaceutical drug distributors to be able to maintain a larger inventory of vitally necessary drugs for the benefit of Texans to be used in the event of a natural disaster or terrorist attack. It is not good public policy for large drug distributors to be able to let their inventories drop simply because it is ad valorem tax rendition time. Other industries can move excess inventory in this manner but it is not beneficial for Texas to have drugs be in short supply at any time. The inventory in question should not have to be rendered.

“Our House Local Government Ways & Means Committee and the Senate Finance Committee went through painstaking revisions to assure that the number of entities affected were reduced to the thirteen wholesale drug distributors, that the amount of inventory held for terrorist attacks, man-made or natural disasters, or local trauma needs was small (10 percent), and that local property tax appraisers would have a valid mechanism from which to draw taxable amounts.

“Local public health infrastructure – hospitals, clinics, doctors, EMS – are our first responders. It is their inventory these wholesalers keep and protect. Since hospitals carry a very limited amount of inventory, they naturally look to their distributor first in any emergency. A strategic stockpile is secondary in use to resources on the ground 5 minutes, let alone a day, after a terrorist attack, and is only used in the instances of man-made or natural disasters, or local trauma needs once the pharmaceutical supply chain has been depleted of all its resources. During the September 11 tragedy, it was these distributors that worked with New York and Capitol police and federal agencies to expedite the movement of drugs and supplies into the affected areas. When all airplanes were grounded for several days during the 9/11 tragedy, it made it more difficult for the pharmaceutical distributors to replenish their stocks which are kept low because of the state of Texas method of taxation on inventories.

“The governor’s actions in regards to HB 3016 were apparently motivated by the listeners of a talk radio show in the Houston area that mobilized its listeners to do a letter writing campaign calling for the veto.”

Sen. Todd Staples, the Senate sponsor, said: “Protecting the health and safety of Texans is of the utmost importance. Ensuring Texas has readily available drug supplies is paramount to protecting its citizens from a catastrophic emergency. House Bill 3016 was introduced to provide a mechanism to identify and appraise drug supply which is held in surplus for natural or manmade catastrophes. The bill was an effort to encourage the holding of drug supplies in Texas for those emergency purposes. The chief appraiser has the ultimate discretion in appraising personal property and verifying the accuracy of any rendition.”

NOTES: HB 3016 was analyzed in Part One of the April 18 *Daily Floor Report*.